



## Maimonides on Eglā Arufa By Rabbi David Silverberg

The final section of Parashat Shoftim discusses the law of *egla arufa*, the ritual a city's leadership must perform when a murder victim is discovered near its borders and the perpetrator cannot be identified. The city's rabbinic leaders are to bring a calf to a certain area described by the Torah as "*nachal eitan*" (21:4), avow their innocence with regard to the crime, and break the animal's neck. A group of *kohanim* attend the ceremony and offer a prayer for forgiveness.

What exactly is a "*nachal eitan*"? To what kind of place does the Torah here refer?

The Mishna in Masekhet Sota (45b) explains this term to mean "*kasheh*," or "hard." Accordingly, Rashi, in his Torah commentary, writes that "*nachal eitan*" refers to an undeveloped valley, a low-lying area that has not been cultivated and its earth is therefore hard and stiff.

Maimonides, however, explains differently. Both in his commentary to the Mishna and in his *Mishneh Torah* (Hilkhot Rotzei'ach 9:2), he writes that when the Mishna describes the "*nachal eitan*" as "*kasheh*," it refers to a strong current of water. In his view, the term "*nachal*" here means "stream," rather than "valley," and "*eitan*" refers to a strong current. Thus, whereas Rashi understood that the *egla arufa* ceremony would take place in a valley with hard earth, Maimonides maintained that it was held along a river or stream.

Later writers have noted that evidence for both views can be found in different contexts in the Talmud. In Masekhet Pesachim (53a), the Gemara writes, "*Siman le-nechalim kinim – nafka mina le-egla arufa.*" Meaning, the presence of reeds serves as an indicator of a *nachal eitan* suitable for the *egla arufa* ritual. Reeds generally grow along riverbanks, and thus this Gemara would seem to suggest that, as Maimonides writes, the *egla arufa* ceremony was held alongside a river with a strong current. (This observation was made by Rabbi Tzvi Ashkenazi, the "Chacham Tzvi," in his responsa, and by Rabbi Akiva Eiger, in his *Tosafot* to the Mishna.)

By contrast, the Gemara in Masekhet Nidda (8a) writes explicitly that the term "*nachal eitan*" refers to "*betulat karka*" – virgin ground that had not been cultivated, clearly expressing the view taken by Rashi.

These different Talmudic passages might indicate that this debate between Maimonides and Rashi actually has its origins in a debate among the Talmudic sages. Indeed, the Tosefot Yom Tov commentary to the Mishna (by Rabbi Yom Tov Lipman Heller, 1579-1654) posited that this debate originates from the *Tanna'im*. The Torah describes the *nachal eitan* as a place "which will not be developed and will not be sown." According to Rabbi Yonatan, as cited by the Gemara (Sota 46b), the Torah here establishes a prohibition against cultivating the land where an *egla arufa* ceremony was held. It does not describe the physical properties of the site, but rather establishes its future halakhic status. Rabbi Yoshiya, however, understood that this phrase is indeed

intended as a physical description of the *nachal eitan* required for the *egla arufa* ceremony. Meaning, it must be an area that had not been cultivated. It seems clear that Rabbi Yoshiya followed Rashi's interpretation, that the term "*nachal eitan*" refers to a site "that is neither developed nor sown," that has not yet been agriculturally developed. This would certainly appear to be the plain reading of the verse. Rabbi Yonatan, however, felt compelled to reject the plain reading, and explain instead that the Torah refers here to the future status of the site. Possibly, he followed Maimonides' view and defined "*nachal eitan*" as a stream, rather than an undeveloped valley, such that the area's past agricultural history is irrelevant. As such, the description of "neither developed nor sown" must refer only to the future status of the land.

We might add that according to Maimonides' understanding of "*nachal eitan*," the *egla arufa* ceremony might be seen as the model that led to the custom of *tashlikh* observed each year on Rosh Hashanah. If, as Maimonides maintained, the *egla arufa* was conducted specifically near a river or stream, then the notion of seeking atonement along a riverbank has its origins already in the Torah. When we visit the riverbank on Rosh Hashanah in an attempt to repent and rid ourselves of our sins, we perhaps reenact the *egla arufa* ceremony during which the *kohanim* beg the Almighty to forgive the crime committed near its borders. Every community assembles by the river to acknowledge the wrongs committed in the town during the previous year, and to beseech God to grant all the residents forgiveness, as though the sins are cast into the river and swept away by its powerful current.